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SENATE BILL 431

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO GAMING; AUTHORIZING THE DEPARTMENT OF HEALTH TO  
EXPEND COMPULSIVE GAMBLER FUNDS FROM GAMING OPERATOR LICENSEES  
ON COMPULSIVE GAMBLER PROGRAMS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is  
enacted to read:

"~~[NEW MATERIAL]~~ DISTRIBUTION--COMPULSIVE GAMBLING FEE--  
FUND CREATED--DEPARTMENT OF HEALTH. --

A. A distribution pursuant to Section 7-1-6.1 NMSA  
1978 shall be made to the "compulsive gambler fund", created in  
the state treasury, in an amount equal to the net receipts of  
all compulsive gambler fees paid to the department pursuant to  
Section 60-2E-47 NMSA 1978.

B. Money in the compulsive gambler fund shall be

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1 expended by the department of health for compulsive gambler  
2 programs.

3 C. The fund shall be administered by the department  
4 of health and all money in the fund, including earnings on the  
5 fund, is appropriated to the department of health.

6 D. Any unexpended or unencumbered balance in the  
7 fund shall not revert to the general fund."

8 Section 2. Section 60-2E-26 NMSA 1978 (being Laws 1997,  
9 Chapter 190, Section 28) is amended to read:

10 "60-2E-26. GAMING OPERATOR LICENSEES--GENERAL  
11 PROVISIONS--BUSINESS PLAN--PLAYER AGE LIMIT--RESTRICTIONS.--

12 [~~A. An applicant for licensure as a gaming operator  
13 shall submit with the application a plan for assisting in the  
14 prevention, education and treatment of compulsive gambling.  
15 The plan shall include regular educational training sessions  
16 for employees. Plan approval is a condition of issuance of the  
17 license.~~

18 B.] A. An applicant for licensure as a gaming  
19 operator shall submit with the application a proposed business  
20 plan. The plan shall include at least:

21 (1) a floor plan of the area to be used for  
22 gaming machine operations;

23 (2) an advertising and marketing plan;

24 (3) the proposed placement and number of  
25 gaming machines;

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- 1 (4) a financial control plan;  
2 (5) a security plan;  
3 (6) a staffing plan for gaming machine  
4 operations; and  
5 (7) details of any proposed progressive  
6 systems.

7 [~~E.-~~] B. A gaming operator licensee shall be granted  
8 a license to operate a specific number of machines at a gaming  
9 establishment identified in the license application and shall  
10 be granted a license for each gaming machine.

11 [~~D.-~~] C. A gaming operator licensee who desires to  
12 change the number of machines in operation at a gaming  
13 establishment shall apply to the board for an amendment to his  
14 license authorizing a change in the number of machines.

15 [~~E.-~~] D. Gaming machines may be available for play  
16 only in an area restricted to persons twenty-one years of age  
17 or older.

18 E. A gaming operator licensee shall not provide,  
19 allow, contract or arrange to provide alcohol or food for no  
20 charge or at reduced prices as an incentive or enticement for  
21 patrons to game.

22 F. A gaming operator licensee shall erect a  
23 permanent physical barrier to allow for multiple uses of the  
24 premises by persons of all ages. For purposes of this  
25 subsection, "permanent physical barrier" means a floor-to-

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1 ceiling wall separating the general areas from the restricted  
2 areas. The entrance to the area where gaming machines are  
3 located shall display a sign that the premises are restricted  
4 to persons twenty-one years of age or older. Persons under the  
5 age of twenty-one shall not enter the area where gaming  
6 machines are located.

7 G. A gaming operator licensee shall not have  
8 automated teller machines in the area restricted pursuant to  
9 Subsection F of this section.

10 [~~H. A gaming operator licensee shall not provide,  
11 allow, contract or arrange to provide alcohol or food for no  
12 charge or at reduced prices as an incentive or enticement for  
13 patrons to game.~~]

14 [~~F.~~] H. Only a racetrack licensed by the state  
15 racing commission or a nonprofit organization may apply for or  
16 be issued a gaming operator's license. No other persons are  
17 qualified to apply for or be issued a gaming operator's license  
18 pursuant to the Gaming Control Act."

19 Section 3. Section 60-2E-47 NMSA 1978 (being Laws 1997,  
20 Chapter 190, Section 49, as amended) is amended to read:

21 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

22 A. An excise tax is imposed on the privilege of  
23 engaging in gaming activities in the state. This tax shall be  
24 known as the "gaming tax".

25 B. The gaming tax is an amount equal to ten percent

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1 of the gross receipts of manufacturer licensees from the sale,  
2 lease or other transfer of gaming devices in or into the state,  
3 except receipts of a manufacturer from the sale, lease or other  
4 transfer to a licensed distributor for subsequent sale or lease  
5 may be excluded from gross receipts; ten percent of the gross  
6 receipts of distributor licensees from the sale, lease or other  
7 transfer of gaming devices in or into the state; ten percent of  
8 the net take of a gaming operator licensee that is a nonprofit  
9 organization; and twenty-five percent of the net take of every  
10 other gaming operator licensee. For the purposes of this  
11 section, "gross receipts" means the total amount of money or  
12 the value of other consideration received from selling, leasing  
13 or otherwise transferring gaming devices.

14 C. The gaming tax imposed on a licensee is in lieu  
15 of all state and local gross receipts taxes on that portion of  
16 the licensee's gross receipts attributable to gaming  
17 activities.

18 D. The gaming tax is to be paid on or before the  
19 fifteenth day of the month following the month in which the  
20 taxable event occurs. The gaming tax shall be administered and  
21 collected by the taxation and revenue department in cooperation  
22 with the board. The provisions of the Tax Administration Act  
23 apply to the collection and administration of the tax.

24 E. In addition to the gaming tax, a gaming operator  
25 licensee that is a racetrack shall pay twenty percent of its

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1 net take to purses to be distributed in accordance with rules  
2 adopted by the state racing commission. An amount not to  
3 exceed twenty percent of the interest earned on the balance of  
4 any fund consisting of money for purses distributed by  
5 racetrack gaming operator licensees pursuant to this subsection  
6 may be expended for the costs of administering the  
7 distributions. A racetrack gaming operator licensee shall  
8 ~~[spend no less than]~~ pay, in addition to other taxes or amounts  
9 required by this section a compulsive gambler fee of one-fourth  
10 [of one] percent of the net take of its gaming machines to the  
11 taxation and revenue department for distribution to the  
12 department of health pursuant to Section 7-1-6.1 NMSA 1978 to  
13 fund or support programs for the treatment and assistance of  
14 compulsive gamblers.

15 F. A nonprofit gaming operator licensee shall  
16 distribute at least sixty percent of the balance of its net  
17 take, after payment of the gaming tax and any income taxes,  
18 for charitable or educational purposes."

19 Section 4. EFFECTIVE DATE. --The effective date of the  
20 provisions of this act is July 1, 2005.